

REMARKS

Allowance of claims 70, 71, 80-82, 84-86, 90-93, 121-123, 125, 127, 129-134, 136, 140, 142, 143, 152, 164, 165, 426, 427, 433, 434 and 436 is noted with appreciation.

Rejected claims 96, 98, 105, 146, 156, 157, 160-162, 428, 431, 432 and 435 have been cancelled without prejudice.

Claims 75-78, 94, 101, 102, 104, 106, 107, 109, 137-139, 148, 153, 159 and 166 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Piplani et al '295. This rejection is respectfully traversed with respect to these claims as amended herein.

These claims have been variously amended herein merely to define the surgical procedure with greater particularity and distinctiveness over the cited art. Specifically, the independent claims 75, 94, 109, 137 and 153 now all variously recite “locating a first portion of each of the plurality of arms within the blood vessel with a second portion of each of the arms extending outside and away from the blood vessel through the arteriotomy defined in the side wall of the blood vessel; wherein the first portion of each of the plurality of arms is located in a first position in relation to the graft assembly during the advancing step, and

wherein the first portion of each of the plurality of arms moves from the first position to a second position in which the first portion of each of the arms extends

inside the blood vessel away from the arteriotomy defined therein after the advancing step while the second portion of each of the arms extends away from the blood vessel through the arteriotomy”, or “locating the plurality of spring arms through the arteriotomy with the first portions thereof adjacent to an inside wall of the blood vessel and with the blood flow conduit and the second portions of the spring arms extending through the arteriotomy outside and away from the blood vessel”, or “(i) extravascularly aligning the orifice of the blood flow conduit with the arteriotomy, (ii) locating a first portion of the resilient member within the blood vessel, and (iii) locating a second portion of the resilient member extending through the arteriotomy outside and away from the blood vessel”, and “expanding the resilient member from the confined first configuration to a second expanded configuration extending radially outwardly about the arteriotomy within the blood vessel due to spring action of the resilient member after the advancing step”, or “aligning the orifice of the blood flow conduit with the opening defined in the blood vessel, with the flange portion and each of the plurality of struts attached thereto extending inside the blood vessel outwardly about the opening defined therein and with the blood flow conduit extending through the opening to outside and away from the blood vessel,” or “after the advancing step, releasing the resilient support to move from the first configuration to a second configuration extending about the arteriotomy inside the blood vessel due to spring action of the

resilient support, with the blood flow conduit extending through the arteriotomy”.

In addition, the dependent claims are further limited by such various definitions of the first portions of flange or arms or struts at an end of the blood flow conduit (for positioning through and inside an arteriotomy or opening in a vessel wall), and second portions of the arms or struts (for extending through the arteriotomy or opening extravascularly and away from the blood vessel).

These aspects of the claimed invention are not disclosed or fairly derived from Piplani et al '295 which merely discloses entirely intraluminal installation of a bifurcated graft. An arteriotomy or opening in a vessel wall in Piplani et al '295 merely facilitates entirely intraluminal installation of the graft which at no time, neither during installation (for which the Examiner's analysis of “a brief moment during insertion” is defective) nor thereafter, ever supports a blood flow conduit with a portion expanded inside at or about an arteriotomy, with another portion extending through the arteriotomy to outside and away from the vessel. At no time, even during installation, does Piplani et al '295 ever extend or expand an end of the graft about the arteriotomy through which the graft is installed with, at the same time of that “brief moment”, leaving the graft extending through the arteriotomy away from the vessel. At best, Piplani only installs or ‘sets’ the hook arms of the upper aortic rim only after the bifurcated graft is entirely installed intraluminally within the aorta and femoral arteries. Nor is a second position or

configuration of the upper aortic rim ever released about the entry hole 226 through which the graft is inserted, even during that “brief moment” of installation, in any manner resembling Applicant’s specifically-defined steps. At best, this upper rim of hook arms only ever engages the entire inner periphery of the aorta and never any portion of the inner vessel walls about the entry hole 226. In short, no anastomosis ever occurs, or is even attempted, about the entry hole 226, in Piplani et al ’295. It is therefore respectfully submitted that claims 75-78, 94, 101, 102, 104, 106, 107, 109, 137-139, 148, 153, 159 and 166 are not anticipated by, but instead are now patentably distinguishable over, the cited art.

Rejected claim 425 has been cancelled without prejudice.

Support for these clarifying revisions to the pending claims may be found in the specification^{1, 2} for example, as follows:

¹ For convenience, references herein for support of claim changes are to columns and lines of U.S. Patent No 5,304,220, as issued from the original continuation-in-part specification, although additional support and earlier priority are contained in U.S. Patent No. 5,211,683. The present application is a continuation of application Serial No. 09/475,789, filed December 30, 1999, now U.S. Patent No. 6,599,313, which is a continuation of Application Serial No. 09/111,062 filed July 7, 1998, abandoned, which is a continuation of Application Serial No. 09/090,598 filed June 4, 1998, now U.S. Patent No. 5,934,286, which is a continuation of Application Serial No. 09/073,336, filed May 5, 1998, now U.S. Patent No. 5,979,455, which is a continuation of Application Serial No. 08/702,742, filed August 23, 1996, now U.S. Patent No. 5,749,375, which is a continuation of Application Serial No. 08/391,960, filed February 21, 1995, now U.S. Patent No. 5,571,167, which is a continuation of Application Serial No. 08/138,912, filed October 18, 1993, now U.S. Patent No. 5,456,712, which is a division of Application Serial No. 08/056,371, filed on May 3, 1993, now U.S. Patent No. 5,304,220, which is a continuation-in-part of Application Serial No. 07/725,597, filed on July 3, 1991, now U.S. Patent No. 5,211,683.

² The supporting passages referenced with respect to the specification and drawings in U.S. Patent No. 5,304,220 are exemplary and not exhaustive. Applicant notes that additional support can be found in U.S. Patent Nos. 5,304,220 and 5,211,683 that is not specifically referenced herein.

Claims 75, 94, 109, 137, 153 (and related dependent claims):

“...first portion...second portion...”

See: 11:36-44

“...extending radially outwardly...”

See: 10:27-31.

“...plurality of struts integrally formed therewith extending outwardly...”

See: 10:42-46.

“...blood flow conduit extending through the arteriotomy...”

See: 11:10-22.

The Examiner’s responses to Applicant’s arguments about Piplani et al ’295 are noted, and the claims have been variously amended herein to obviate any ambiguities, and to more distinctively define the inventive method beyond what may be fairly derived or permissibly interpreted from Piplani et al ’295, without materially altering the described function or purpose of this reference.

Applicant lists the applications that are co-pending with the subject application, and that might possibly be considered to set forth similar subject matter to the present claims, as follows:

- Ser. No. 10/731,068;
- Ser. No. 11/264,929
- Ser. No. 11/375,387; and

- Ser. No. 11/440,267

It is respectfully submitted that these applications are now believed to be stored in image format (IFW System available to the Examiner), but copies of the claims may be supplied upon the Examiner's request to the undersigned attorney for the Applicant.

Reconsideration and allowance of all pending claims are solicited. The Examiner is requested to contact the undersigned attorney regarding any remaining issues that may expedite favorable disposition of this application.

Respectfully submitted,

Dated: 4/4/08

By: /Albert C. Smith/
Albert C. Smith, Reg. No. 20,355
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Telephone (650) 335-7296
Fax (650) 938-5200